



DEPARTMENT OF THE ARMY
ST. PAUL DISTRICT, CORPS OF ENGINEERS
180 FIFTH STREET EAST, SUITE 700
ST. PAUL MINNESOTA 55101-1678

REPLY TO
ATTENTION OF

December 10, 2012

Operations
Regulatory (2011-00832-JCB)

Mr. Thomas Kelly
U.S. Steel Corporation
Minnesota Ore Operations
P.O. Box 417
Mt. Iron, Minnesota 55768

Dear Mr. Kelly:

Enclosed is the validated copy of the Department of the Army permit issued to United States Steel- Minnesota Ore Operations. Please be advised that the authorization hereby granted is contingent on the permittee's compliance with all conditions stated in the permit and its attachments.

This Federal permit does not obviate the need to obtain any other Federal, state or local authorizations required by law.

The decision regarding this action is based on information found in the administrative record which documents the District's decision-making process, the basis for the decision, and the final decision.

If you have any questions, contact Ms. Jill Bathke in our St. Paul District office at (651) 290-5357. In any correspondence or inquiries, please refer to the Regulatory number shown above.

Sincerely,


Tamara E. Cameron
Chief, Regulatory Branch

Enclosure

DEPARTMENT OF THE ARMY PERMIT

Permittee United States Steel- Minnesota Ore Operations
Permit No. 2011-00832-JCB

Issuing Office St. Paul District
U.S. Army Corps of Engineers

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description

You are authorized to discharge dredged and fill material into 75.41 acres of wetlands for the expansion of Minntac's western mine pit and into 0.37 acres of wetlands for the construction of the No. 6 Sump Dewatering Flow Alternative Process Makeup Water Source Project. You are also additionally authorized to retain dredged and fill material placed in 5.2 acres of wetlands.

The project will permanently and adversely impact the following wetland plant communities: 5.60 acres of fresh (wet) meadow/sedge meadow, 33.58 acres of alder thicket/shrub carr, and 41.80 acres of hardwood swamp. The total authorized discharges of dredged and fill material into wetlands (after-the-fact and currently authorized) for the Minntac Progression Project is 80.98 acres.

Permanent discharges of dredged and fill material authorized by this permit are shown on figures 2011-00832-JCB, page 1 of 10 through 10 of 10, attached to this permit.

Project Location

The project site is located in Sections 1, 2, 4, 7, 8, and 9 of Township 58 North, Range 18 West and Sections 11 and 12 of Township 58 North, Range 19 West, Mountain Iron, St. Louis County, Minnesota.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on December 31, 2015. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archaeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. A 401 water quality certification has been issued for your project and you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached as Appendix A.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

1. A copy of this permit and attachments must be kept at the project site and provided to any party involved with soil excavation, grading, filling or other site work that has the potential to affect wetlands as part of the Minntac Progression Project.
2. You are responsible for insuring that whoever performs, supervises, or oversees any portion of the physical work associated with the construction of the project has a copy of, is familiar with, and complies with and/or requires compliance with all the terms and conditions of this permit.

3. It is your responsibility to ensure that no additional impacts (direct or indirect) occur to jurisdictional waters of the U.S. on the project site except those authorized by this permit. Prior to any land disturbance in a project area, the wetland areas that are not to be impacted adjacent to that area are to be clearly marked in the field or the approved construction limits clearly demarcated so that the boundaries are clearly visible to all equipment operators. Wetland impact areas authorized by this permit and all wetland areas you have delineated at the Minntac Mine shall be provided to mine engineers or mine planners in an electronic format and shall be used in the preparation of mine pit development maps and mine plans. Areas where work can be performed and areas where no impacts are allowed shall be clearly demarked on maps and mine development software.
4. You shall submit to the Corps one copy of the Permit-to-Mine Annual Report and annual Operating Plan within one month after the end of each calendar year for a total of ten years, starting January 2013. The report shall include a tabulation of all wetland mitigation and wetland impact activities that occurred that year.
5. You shall ensure that adequate erosion and sediment control measures are in place prior to the initiation of any physical construction to prevent introduction of sediment-laden runoff into surface waters or wetlands.
6. Material excavated from the project site shall be disposed of in an approved upland location and shall not be disposed of in any aquatic resources.
7. You shall meet the requirements of the Programmatic Agreement (PA) executed by the Corps of Engineers and the State Historic Preservation Officer for the Minntac Progression Project within six months of issuance of this permit and prior to any discharge of tailings into the tailings basin that contains any material mined from the western progression area, as shown on figure 2011-00832-JCB, figure 9 of 10. A copy of the PA is attached to this individual permit as Appendix B. You may consider this permit as written notification from the Corps that you may proceed with project construction and/or mining operations in the project area, as required by the PA.
8. The No. 6 Sump Dewatering Flow Alternative Process Makeup Water Source Project ("No. 6 Sump Project") shall be fully operational within 18 months of permit issuance.
 - a. The Corps will consider the project to be fully operational when a minimum of 2,000 gallons per minute (gpm) of the existing process make-up water source at the Mt. Iron Pit, is replaced with 2,000 gpm of process make-up water from the #6 Sump source. You shall advise the St. Paul District in writing (email or mail correspondence) within five working days of the No. 6 Sump Project becoming fully operational.
 - b. You shall maintain the No. 6 Sump Project and operate it at no less than an annual rolling averaged discharge rate of 2,000 gpm as referenced in Subparagraph a of this permit condition in the conduct of your mining operations.
 - i. The rolling average for the first 12 months of operation of the No. Sump 6 Project will be calculated monthly as the average of all data points collected from the No. 6 Sump Pumping Station since startup of the project divided by

- the number of months in operation.
 - ii. After one year of operation of the No. 6 Sump Project, the rolling average will be calculated on a monthly basis and will be the average of all data points collected from the No. 6 Sump Pumping Station in the prior 12-month period.
 - c. In the event that the No. 6 Sump Project is not used and operated as referenced in Subparagraph b of this permit condition, for any reason whatsoever, after June 1, 2014, you shall immediately notify the Corps of this change in writing. That notification shall identify the reason that the No. 6 Sump Project is no longer in use or operational and identify your plan to return the No. 6 Sump Project to full operation. Following that notification, the Corps will reevaluate permit decision in accordance with the procedure identified under the heading, "Additional Information" Number 5 of this permit and consider whether further action to suspend, modify, or revoke this permit is appropriate.
- 9. You shall submit, within 120 days of permit issuance, a Twin Lakes Wild Rice Restoration Opportunities Plan ("Plan") evaluate and identify implementation alternatives to the reestablishment of wild rice beds within Little Sandy and Sandy Lakes, collectively known as the Twin Lakes. The Plan shall include, but is not limited to, the following activities and appropriate milestones:
 - a. A contract scope of work with a qualified aquatic biologist and/or aquatic ecologist with expertise in aquatic habitat restoration to direct development and implementation of the Plan (person(s) with significant expertise in wild rice restoration may also be acceptable);
 - b. A review of relevant information and conclusions from available Minnesota Pollution Control Agency and Minnesota Department of Natural Resource wild rice studies, Tribal wild rice studies and other related studies and research. Relevant information shall include topics of: wild rice habitat, pollution tolerance, restoration, ecology, and historical extent;
 - c. An evaluation which includes an analysis of the hydrology, chemistry, paleobotany, sediment core analysis, and the extent of invasive species of the Twin Lakes, and any other relevant site-specific factors to determine potential success of wild rice restoration within the Twin Lakes;
 - d. An evaluation of property ownership, access, and any approvals (regulatory or otherwise) necessary to undertaking wild rice restoration activities in the Twin Lakes, and;
 - e. The development of a five-year wild rice restoration and monitoring program for those areas of the Twin Lakes that show the greatest potential for restoration based on best information available in the time frame allowed for submitting its report.
- 10. Twin Lakes Wild Rice Restoration Opportunities: Plan Implementation: Within 30 days of receipt of the Plan required by Special Condition, the Corps will review the Plan and will set up a meeting between the interested parties for this particular mitigation effort, you, and the Corps to discuss the Plan. Within 30 days following that meeting, the Corps will provide you with written recommendations and comments on the Plan. You shall provide the Corps with and updated plan addressing each of the Corps' recommendations and comments within 60

days of the receipt of the written comments. Upon receipt of the Plan, the Corps will review the plan to determine whether its comments and recommendations have been satisfactorily addressed. If the updated Plan is satisfactory, the Corps will notify you within 10 business days of its receipt of the updated Plan. If the updated Plan is not satisfactory, the Corps will provide additional recommendations and comments and you will provide a revised Plan within 30 days receipt of the Corps' recommendations and comments.

- a. The Plan will be initiated no later than October 31, 2013, unless you request, in writing, a request for an extension to Plan implementation. Your request shall include rationale for why the Plan cannot be implemented by October 31, 2013 and a proposed new timeframe for implementing the Plan.
11. You shall advise the St. Paul District in writing (email or mail correspondence) of the time the authorized activity will commence and the name and telephone number of any contractors or other persons performing the work authorized under this permit.
 12. As compensation for the unauthorized impacts to 5.2 acres of wetlands, you shall provide 8.9 wetland mitigation credits from the United States Steel Thompson Wetland Bank, located in Aitkin County. You shall provide written verification that the credits have been withdrawn from that Bank within 30 days from the issuance date of this permit.
 13. As compensation for impacts to 75.78 acres of wetlands associated with the western pit progression and the No. 6 Sump construction, you shall complete project-specific wetland mitigation at the 122-acre Palisade II site in Aitkin County.
 - a. Specifically, you shall restore and rehabilitate 5.2 acres of fresh wet meadow wetlands, 38.95 acres of shrub-carr wetlands, 50.58 acres of hardwood swamp wetlands, and 19.44 acres of native upland prairie (also referred to as upland berms).
 - b. This restoration and rehabilitation work shall be done in accordance with the "Palisade II (Minntac) Mitigation Bank Report – March 2012," and the following documents: a June 14, 2012 email from USS titled "Fw: Additional Information to Address Regulatory Comments," and a July 17, 2012 letter from USS titled "RE: Response to EPA Comments". The June 14, 2012 email and July 17, 2012 letter are attached to this permit as Appendix C. The "Palisade II (Minntac) Mitigation Bank Report – March 2012" and Appendix C (collectively referred to as "the Mitigation Plan" or "the Plan") describe the proposed construction, wetland and upland establishment, and long-term maintenance and monitoring at the Palisade II site.
 - c. Where Appendix C and the "Palisade II (Minntac) Mitigation Bank Report – March 2012," provide conflicting information, the direction provided in Appendix C shall govern over the "Palisade II (Minntac) Mitigation Bank Report – March 2012."
 14. You shall submit both an as-built survey and seeding and planting plans within 30 days of completion of earthwork at the Palisade II site. Within 90 days of receipt of the as-built survey/engineering plan and seeding and planting plans, the Corps will notify you, in writing, whether the plans are in compliance with this permit and the Mitigation Plan, and will describe any changes needed.

15. Annual mitigation monitoring reports for the Palisade II site shall be submitted on the status of the mitigation. The reports shall be submitted by December 31 following each of the first five growing seasons. The first growing season will begin the spring of 2013. Unless otherwise directed by the Corps, an abbreviated report addressing the shrub-carr wetlands and forested wetlands shall be submitted following the eighth growing season and for forested wetlands in the tenth growing season. The abbreviated reports shall also be submitted by December 31 following the eighth and tenth growing seasons. The reports shall, at a minimum, include the following information:
- a. All plant species along with their percent cover, identified using standard plots and/or transects, with at least two representative plots/transects in each plant community within the mitigation site, including upland buffers. In addition, the presence, location and percent cover of invasive and/or non-native species in any of plant communities shall be noted.
 - b. Vegetation cover maps at an appropriate scale shall be submitted for each reported growing season.
 - c. Photographs showing all representative areas of the mitigation site taken at least once each reported growing season during the period of July 1 to September 30. Photos shall be taken each reporting year from the same reference point and direction of view, which shall be clearly identified on a plan view of the site. Photographs shall be taken from a height of approximately five to six feet from at least one location per acre, and at each representative plot/transect.
 - d. Surface water and groundwater elevations in representative areas (e.g., at least one sample point in each plant community) recorded at least once each week for the first 10 weeks of each growing season, thereafter taken monthly for the remainder of each growing season. The location of each monitoring site shall be shown on a plan view of the site. The water monitoring protocol must, at a minimum, be sufficient to document water levels or water table depths and durations for each monitoring year specified in the hydrology standards below.
 - e. Rain gauges and precipitation recorders shall be installed at the Palisade III wetland bank site to provide representative site-specific daily precipitation data, as stated in U.S. Steel's July 17, 2012 letter in response to the USACE 6-29-12 comment letter. Precipitation recorded on the site during each growing season shall be overlaid onto the 30/70 percentile range, using the 30-day running total method, to display rainfall relative to below, above, , and normal conditions. A map showing the location(s) of the rain gauges at precipitation recorders, in relation to the Palisade II project area shall be provided with each monitoring report.
 - f. Information gathered from established fixed survey locations on each earthen berm. The survey locations shall monitor changes in the height of the berm potentially resulting from: weather events, erosion or subsidence (settling). The elevation of each constructed earthen berm shall be determined by a registered land surveyor and recorded on the as-built survey. Berms on either side of the ditches shall be monitored separately. Unless otherwise requested by the Corps, the berms shall be surveyed as follows: after construction (as-built survey) the first, third, fifth, and tenth growing seasons.

- g. Information gathered related to percentage of open water ponding, including locations and percent areal cover of the mitigation site.
- 16. You shall submit a final Site Report for the Palisade II site after the tenth growing season. The final report following the tenth growing season shall be submitted no later than February 1 of the following year to: ATTN: MVP-2011-00832-JCB, St. Paul District, Army Corps of Engineers, Regulatory Branch at 180 5th Street East, Suite 700, Saint Paul, Minnesota 55101-1678 The final site report shall include the following:
 - a. A Wetland delineation. A wetland delineation of the mitigation site applying the *Corps of Engineers Wetlands Delineation Manual*, the *Regional Supplement to the Corps of Engineers Wetlands Delineation Manual: Northcentral/Northeast Region* (current version) and other relevant guidance shall be submitted. This delineation shall be prepared by a certified wetland delineator.
 - b. A survey of all wetlands and ditches and each wetland plant community.
 - c. A summary of the planting success in each wetland plant community.
 - d. A summary of invasive species found on site, including percent cover and location(s).
 - e. A description of the condition of all upland berms.
 - f. A list, description, and location of any upland berm erosion.
 - g. A list, description and location of any ponding onsite that exceeds the performance standards in this permit.
 - h. A description of any vandalism or encroachment issues.
 - i. A description of compliance with the recorded conservation easement.
 - j. A list of any other long-term management issues identified during the final site visit.
- 17. You shall install monitoring wells and staff gauges on site following construction in early spring of 2013 as indicated in the Plan; locations of staff gauges shall correspond to deepest areas where ponding may be anticipated. Monitoring well and staff gauge data shall be submitted with each required monitoring report (following the first, second, third, fifth, eighth, and tenth growing seasons) and the final site report.
 - a. If ponding of more than 6 inches occurs for a longer duration than 30 days after normal or below-normal precipitation during years one through four, you shall implement the adaptive management planting plan as specified in Appendix C of this permit. Additional corrective action measures may also be required by the Corps including, but not limited to, reshaping of surface contours to minimize depth and duration of ponding.
- 18. You shall grant a conservation easement, in a form acceptable to the Corps, sufficient to protect the Palisades II Site in perpetuity. The conservation easement shall be perpetual, preserve all natural areas, and prohibit all use of the property inconsistent with its use as a mitigation site, including any activity that would materially alter the biological integrity or functional value of wetlands within the Palisade II Site, consistent with the Plan. Appendix D provides an example easement which the Corps would find acceptable. You shall deliver a copy of the title insurance covering the mitigation property that is acceptable to the Corps. The property shall be free and clear of any encumbrances that would conflict with its use as mitigation site, including, but not limited to, any liens that have priority over the recorded

preservation mechanism. The fully executed conservation easement (following the format outlined in Appendix D) shall be submitted to the Corps no later than March 19, 2013.

19. The Palisades II site must meet the following performance standards:

a. HYDROLOGY

- i. Hardwood Swamps and Shrub-Carrs (Mineral Soils). Hydrology shall consist of saturation within 6 inches of the surface, to inundation by up to 6 inches of water, for a minimum of 28 consecutive days or two periods of 14 consecutive days, during the growing season under normal to wetter than normal conditions (70 percent of years based on most recent 30-year record of precipitation). Inundation by more than 6 inches of water during the growing season shall not occur except following the 10-year frequency or greater storm/flood event. Inundation greater than 6 inches of water shall have a duration of less than 14 days. An exception can be made for sites with hummocky micro-topography: hollows between hummocks can have standing water depths of 6 to 12 inches for extended duration.
- ii. Fresh (Wet) Meadows, Sedge Meadows (Mineral Soils). Hydrology shall consist of saturation at or within 12 inches of the surface for a minimum of 28 consecutive days, or two periods of 14 consecutive days, during the growing season under normal to wetter than normal conditions (70 percent of years based on most recent 30-year record of precipitation). Inundation during the growing season shall not occur except following the 10-year frequency or greater storm/flood event. The depth of inundation shall be 6 inches or less and the duration of any inundation event shall be less than 14 days. An exception can be made for sites with hummocky micro-topography: hollows between hummocks can have standing water depths of up to 6 inches for extended duration.
- iii. Fresh (Wet) Meadows, Sedge Meadows, Hardwood Swamps, Coniferous Swamps, Shrub-Carrs (Peat/Muck Soils). Hydrology shall consist of saturation to the surface throughout the growing season, except in drought years (driest 10 percent of the most recent 30-year period of precipitation record). Inundation shall not occur (unless there are site-specific conditions). An exception can be made for sites with hummocky microtopography: hollows between hummocks can have standing water depths of up to 6 inches for extended duration.

b. VEGETATION

- i. Forested Wetlands - Tree Layer: There shall be an average stand density of 400 native, non-invasive tree seedlings/acre with at least ½-inch basal caliper and 2-foot height after three full growing seasons, and 300 native, non-invasive stems with 1-inch basal caliper and 3-foot or greater height after five full growing seasons. Tree species stem densities below these criteria shall require replanting(s) until this standard is met. Tree growth-tubes shall be used as needed to control grazing by local herbivores such as white-tailed deer. Seedlings of any invasive and/or non-native tree species shall be controlled as stated in Paragraph f. below. After 10 years, the forested

- communities shall attain an average stand density of 150 native, non-invasive trees/acre of 2-inch diameter at breast height (dbh) or greater.
- ii. Shrub-Carrs - Shrub Layer: Native/non-invasive shrub species shall be present in densities of at least 480 stems per acre over 80 percent or more of the areas designated for shrub-carr communities within the compensation site after three full growing seasons, and densities of at least 420 stems per acre over 80 percent or more of the areas designated for shrub-carr communities within the compensation site after five full growing seasons. Survival rates below these criteria shall require replanting(s) until this standard is met. Only native/non-invasive shrub species (e.g., alders, willows, dogwoods, meadowsweet) shall be present. After eight years, the shrub carr shall comprise 50 percent or greater vegetative areal coverage of the total mitigation site.
 - iii. Herbaceous Layer or Fresh Wet Meadow and Sedge Meadow Herbaceous Community – Areal Cover by Native/Non-Invasive Species: After five growing seasons, native/non-invasive herbaceous species shall comprise at least 85 percent vegetative areal cover. In the event that areal cover is less than the required 85 percent due to open water/excessive ponding, the USS shall implement the adaptive management planting plan referenced in Appendix D of this permit.
 - iv. Herbaceous Layer or Fresh Wet Meadow and Sedge Meadow Herbaceous Community – Species Richness: After the end of the third growing season at least 70 percent vegetative areal cover shall be composed of native/non-invasive perennial species, including at least six or more species of native/non-invasive grasses, sedges, rushes, forbs and/or ferns. After the end of year five, the herbaceous layer or herbaceous communities shall be comprised of ten or more species of native/non-invasive grasses, sedges, rushes, forbs and/or ferns. Of the ten or more species of native/non-invasive grasses, sedges, rushes, forbs and/or ferns, six shall be dominants as determined by a Corps approved vegetation dominance test.
 - v. Hydrophytes: At least 75 percent of vegetative areal cover within the wetland communities of the mitigation site shall be composed of FAC, FACW or OBL species, as listed on the National Wetland Plant List (NWPL, 2012). This standard must be met at the end of the third growing season for fresh wet meadow and sedge meadow communities, the fifth growing season for the shrub-carr communities, and the tenth growing season for forested communities.
 - vi. Control of Invasive and/or Non-Native Species: Control of invasive and/or non-native plant species shall be carried out for 5 full growing seasons for fresh wet meadow and sedge meadow communities, 8 full growing seasons for shrub communities, and 10 full growing seasons for forested communities. Control shall consist of mowing, burning, disking, mulching, biocontrol and/or herbicide treatments. By the third growing season, any areas one-quarter acre in size or larger that have greater than 50 percent areal cover of invasive and/or non-native species shall be treated (e.g., herbicide) and/or cleared (e.g., disked) and then reseeded. Follow-up control of invasive and/or

non-native species shall be implemented as stated above. At the end of the fifth growing season for the herbaceous plant community, eighth growing season for shrub communities, and tenth growing season for forested communities, the vegetative community shall not contain greater than 15 percent vegetative areal cover of invasive and/or non-native species including but not limited to: reed canary grass (*Phalaris arundinacea*), Canada thistle (*Cirsium arvense*), bull thistle (*Cirsium vulgare*), smooth brome grass (*Bromus inermis*), giant ragweed (*Ambrosia trifida*), common ragweed (*Ambrosia artemisiifolia*), quack grass (*Elytrigia repens*), black locust (*Robinia pseudoacacia*), sweet clovers (*Melilotus alba* and *M. officinalis*), non-native honeysuckles (e.g., *Lonicera x bella*), and non-native buckthorns (*Rhamnus cathartica* and *R. frangula*). The mitigation site shall have no purple loosestrife (*Lythrum salicaria*) present at the end of the monitoring period. Failure to meet any of the above criteria shall extend the permittee's responsibility for monitoring and control of invasive/non-native species within the compensation site, and may delay the release of remaining credits until the invasive and/or non-native species are within the above described performance standards.

c. UPLAND BERMS / UPLAND BUFFERS / NATIVE UPLAND PRAIRIE

- i. Upland Berm Elevation (Berms adjacent to ditches only): The upland berms shall remain at the elevation established in the plan and documented in the as-built survey. If monitoring of the earthen berms required in paragraph 1.e indicates that the elevation of at any fixed monitoring location has decreased by more the 0.5 feet of elevation the permittee shall submit a corrective action plan to the Corps. The corrective action plan will describe proposed measures to restore the elevation of the earthen berm to the as-built elevation. The Corps must review and approve the corrective action plan prior to the permittee undertaking any work to address the change in elevation. The decision on whether implementation of the measures included in the plan is necessary will be made by the Corps.
- ii. Upland Buffers and Berms/Native Prairie. After the end of the third growing season at least 70 percent vegetative areal cover shall be composed of native/non-invasive perennial species, including at least six native/non-invasive grasses and/or forbs. After five growing seasons at least 85 percent vegetative areal cover shall be composed of native/non-invasive perennial species. After the end of year five, the herbaceous layer or herbaceous communities shall be comprised of ten or more species of native/non-invasive grasses and/or forbs. Six of the native/non-invasive grasses and/or forbs shall be dominants as determined by a Corps approved vegetation dominance test. By the end of the fifth growing season, the buffer shall contain 15 or more native/non-invasive species. Failure to meet these standards shall result in reseeding(s) and additional control of invasive and/or non-native species. Tree or shrub species that volunteer from within the adjacent upland buffer areas will be allowed as long as the species are native/non-invasive and do not

threaten the plant communities of the wetland mitigation areas or the integrity of the structure of any upland berms.

- iii. Control of Invasive and/or Non-Native Species- Upland Berms/ Native Prairie: Control of invasive and/or non-native plant species shall be carried out for 5 full growing seasons. Control shall consist of mowing, burning, disking, mulching, biocontrol and/or herbicide treatments. By the third growing season, any areas one-quarter acre in size or larger that have greater than 50 percent areal cover of invasive and/or non-native species shall be treated (e.g., herbicide) and/or cleared (e.g., disked) and then reseeded. Follow-up control of invasive and/or non-native species shall be implemented as stated above. At the end of the fifth growing season the vegetative community shall not contain greater than 15 percent vegetative areal cover of invasive and/or non-native species including but not limited to: reed canary grass (*Phalaris arundinacea*), Canada thistle (*Cirsium arvense*), bull thistle (*Cirsium vulgare*), smooth brome grass (*Bromus inermis*), giant ragweed (*Ambrosia trifida*), common ragweed (*Ambrosia artemisiifolia*), quack grass (*Elytrigia repens*), black locust (*Robinia pseudoacacia*), sweet clovers (*Melilotus alba* and *M. officinalis*), non-native honeysuckles (e.g., *Lonicera x bella*), and non-native buckthorns (*Rhamnus cathartica* and *R. frangula*). The mitigation site shall have no purple loosestrife (*Lythrum salicaria*) present at the end of the monitoring period. Failure to meet any of the above criteria shall extend the permittee's responsibility for monitoring and control of invasive/non-native species within the compensation site, and may delay the release of remaining credits until the invasive and/or non-native species are within the above described performance standards.

20. You are responsible for long-term management of the Palisade II site, and shall implement the long-term management measures described in the Plan. The long-term management measures shall include sufficient monitoring and corrective measures to ensure that the Palisade II site continues to meet the success criteria until the Corps concurs that the required monitoring period is completed and that the wetland and habitat functions of the site appear to be stable or increasing for the foreseeable future (as described in Special Conditions 13-19, above). You may request to transfer the long-term management responsibilities to a land stewardship entity, such as a public agency, non-governmental organization, or private land manager. Any such transfer must be approved in writing by the Corps and will only be approved if the long term management plan of the proposed transferee is acceptable to the Corps of Engineers.
21. The Plan may not be modified without the written approval of the Corps. You must submit a request for modification to the Corps. Within 90 days of receipt of the proposed modification, the Corps will notify the USS of the acceptability of the modification, and what changes, if any, are needed to make the modified plan acceptable. You shall provide a revised plan for Corps of Engineers approval prior to implementing any modification of the plan.

22. The permittee shall establish an escrow account to guarantee restoration and rehabilitation of the Palisade II site as described in Special Conditions 13-19, above. The permittee shall deposit into the account an initial payment of \$654,050 within thirty days of issuance of this permit. This Special Condition in no way limits the requirement of the Permittee to complete the restoration and rehabilitation of the Palisade II site in compliance with this permit.

a). The escrow agreement's form and content shall be prepared by the permittee and submitted to the District Engineer for approval no later than January 18, 2013. The account shall be interest bearing. Interest on the funds deposited shall accrue and be deposited with the principal amount. The escrow agent shall be a financial institution or other entity satisfactory to the District Engineer. Following approval by the District Engineer, the Permittee shall provide a copy of the escrow agreement, signed by the bank, and proof of establishment of the account. The Permittee will be solely responsible for any fees associated with the escrow account.

b). Neither the Permittee nor any other person or entity shall have any right or access to the escrow funds except as described herein or provided by Federal law. Funds may be disbursed from the account to complete the restoration and rehabilitation at the Palisade II site or perform alternate mitigation if the permittee: A) fails to take active steps in furtherance of the restoration and rehabilitation of the Palisade II site for a period of 12 months; B) fails to satisfactorily complete the approved restoration and rehabilitation project in accordance with of this permit and the Mitigation Plan; C) fails to submit the required monitoring reports, as required by Special Condition 9, above; or D) otherwise refuses or fails to prosecute the work necessary to complete restoration and rehabilitation within a reasonable time following written notification of the permittee by the District Engineer. If the District Engineer determines that any of these situations have occurred, written notification of the noncompliance will be provided to the permittee. If the permittee fails to take action to correct the noncompliance within 60 days of the date of the District Engineer's notification then all or any part of the funds, as specified by the District Engineer, including any accrued interest, shall be paid to Prairie Restorations Inc. for the purpose of completing the restoration and rehabilitation of the Palisade II site as described in the Mitigation Plan and any future amendments to the Palisade II mitigation plan. If restoration and rehabilitation of the Palisade II site is either impossible or impracticable, Prairie Restorations Inc. will use the funds for mitigation that achieves the same or similar wetland functions, per a separate arrangement with the Corps. If, at any time, Prairie Restorations Inc. is no longer available to undertake the mitigation, another public or private natural resources organization shall be specified by the Permittee. This organization is subject to the approval of the District Engineer. Should the Permittee fail to specify an organization satisfactory to the District Engineer within 30 days of notification that funds may be disbursed; the Corps will request that the State of Minnesota's Board of Soil and Water Resources propose another public or private natural resources organization for approval by the District Engineer.

c). If the District Engineer determines that the restoration and rehabilitation of the Palisade II site is satisfying interim mitigation goals, he or she will authorize the release of a specified amount from the escrow account, as follows (and summarized in Table 1, below):

- i. Following the Third Growing Season- The Corps will review the submittal of as-built drawings, the first three years of monitoring reports, and complete any necessary site visits to determine compliance with 1) the approved grading and engineering plans, as required in Special Condition 8, 2) the approved seeding and planting plans, as required in Special Condition 8, 3) the requirements for complete monitoring reports, as required in Special Condition 9, and 4) the year three performance standards as listed in Special Condition 12, above. If the Corps determines, in its sole discretion, that the Permittee is in compliance with Special Conditions 4 through 12 above, the District Engineer will certify in writing to the Escrow Agent that \$127,500 from the escrow account shall be released to the Permittee.
- ii. Following the Fifth Growing Season - The Corps will review the first five years of monitoring reports and complete any necessary site visits to determine if the sedge meadow (17.68 acres) and native upland (19.44 acres) portions of the site meet the year five performance standards listed in Special Condition 12, above. If the Corps determines, in its sole discretion, that the restoration and rehabilitation of the fresh wet meadow wetland, sedge meadow wetland, and native upland communities is in compliance with Special Conditions 13-19 above, the District Engineer will certify in writing to the Escrow Agent that \$54,850 from the escrow account shall be released to the Permittee. The District Engineer may also certify that funds held from year three which were not previously released may be released.

At the written request of the permittee, the Corps will consider early release of the escrow funds. If, after reviewing monitoring reports submitted for years three and four, the District Engineer determines that the fresh wet meadow wetland, sedge meadow wetland, and native upland meet the year five performance standards prior to the fifth growing season he or she may allow early release of funds. In this instance, the District Engineer will certify in writing to the Escrow Agent that \$54,850 from the escrow account shall be released to the Permittee.

- iii. Following the Eighth Growing Season - The Corps will review submitted monitoring reports for years 5 – 8 and complete any necessary site visits to determine, in its sole discretion, if the shrub-carr wetland (34 acres) portion of the site meets the year eight performance standards listed in Special Condition 12, above. If the Corps determines, in its sole discretion, that the restoration and rehabilitation of the shrub-carr wetland community is in compliance with Special Conditions 13-19 above, the District Engineer will certify in writing to the Escrow Agent that \$195,000 from the escrow account shall be released to the Permittee. The District Engineer may also certify that funds held from years three and/or five which were not previously released may be released.

At the written request of the permittee, the Corps will consider early release of the escrow funds. If, after reviewing monitoring reports submitted between years five and seven, the District Engineer determines that the shrub-carr wetland meets the year eight performance standards prior to the eighth growing season he or she may allow early

release of funds. In this instance, the District Engineer will certify in writing to the Escrow Agent that \$195,000 from the escrow account shall be released to the Permittee.

- iv. Following the Tenth Growing Season- The Corps will review submitted monitoring reports for years 5-10 and complete any necessary site visits to determine, in its sole discretion, if the hardwood swamp wetland (42 acres) portion of the site meets the year ten performance standards listed in Special Condition 12, above. If the Corps determines, in its sole discretion that the restoration and rehabilitation of the hardwood swamp wetland community is in compliance with Special Conditions 13-19 above, the District Engineer will certify in writing to the Escrow Agent that \$248,500 from the escrow account shall be released to the Permittee. The District Engineer may also certify that funds held from years three, five, and/ or eight which were not previously released may be released.

At the written request of the permittee, the Corps will consider early release of the escrow funds. If, after reviewing monitoring reports submitted between years five and nine, the District Engineer determines that the hardwood swamp wetland meets the year ten performance standards prior to the tenth growing season he or she may allow early release of funds. In this instance, the District Engineer will certify in writing to the Escrow Agent that a \$248,500 from the escrow account shall be released to the Permittee.

- v. Following the tenth growing season- The Permittee shall complete and submit to the Corps a Final Site Report for the Palisade II site. The report shall be submitted no later than December 31, 2023. The Final Site Report shall include: a delineation of the entire Palisade II site completed by a certified wetland delineator; a survey of all the wetland, ditch, and each wetland plant community; a summary of planting success in each wetland plant community; a summary of invasive species found on the site, including their percent cover and location(s); a list and description and location of any upland berm erosion; a list and description and location of any ponding on the site that exceeds the performance standards described in special condition 12, above; a description of the condition of all the upland berms; a description on the condition on all signage; a description of any vandalism or encroachment issues; a description on compliance with the recorded conservation easement; and a list of any other long-term management issues identified during the site visit. Along with the submittal of the Final Site Report, the Permittee may request in writing, release of the remaining balance of the escrow account, including any remaining accrued interest.

The Corps will review the Final Site Report, and complete any necessary site visits it to determine if the Palisade II site is in compliance with the with the overall bank plan as stipulated in Special Conditions 13-19, above. If the District Engineer determines that restoration and rehabilitation for the entire Palisade II site has been successfully completed as required by Special Conditions 13-19, above and no further adaptive management of the site is necessary, he or she will certify in writing to the Escrow Agent that that the remaining balance of the escrow account, including any remaining accrued interest, shall be released to the Permittee.

If the District Engineer determines that the site requires additional remediation consisting of: invasive species management, wetland plant reseeding, shrub or tree re-planting, upland berm reseeding or re-grading (following a ditch cleaning or a large storm event), or signage replacements, he or she will request those changes in writing to the Permittee along with the timeframe the work should be completed. The Permittee shall comply with the District Engineer's recommendations. Following implementation of those recommendations, the Permittee may request in writing, release of the remaining balance of the escrow account, including any remaining accrued interest. The District Engineer will respond to the Permittee's written request within 60 days. If the District Engineer determines that restoration and rehabilitation for the entire Palisade II site has been successfully completed as required by Special Conditions 13-19, above and no further adaptive management of the site is necessary, he or she will certify in writing to the Escrow Agent that the remaining balance of the escrow account, including any remaining accrued interest, shall be released to the Permittee.

TABLE 1

Growing Season	Financial assurance release limit	Composition of the release
Year Three	\$127,500	Grading: \$127,500
Year Five ¹	\$54,850 ²	Seeding: \$41,100 / Monitoring Of Sedge Meadow and Native Upland: \$13,750
Year Eight ¹	\$195,000 ²	Woody Vegetation: \$184,000 / Monitoring of scrub-carr wetlands: \$11,000
Year Ten ¹	\$248,500 ²	Woody Vegetation: \$232,000 / Monitoring of hardwood swamp: \$16,500
Year Ten (following submittal of final site report)	\$28,200 ² , any remaining accrued interest, and remaining balance	Management of entire site: \$28,200/ Interest / Balances previously held
TOTAL:	\$654,050	

¹ If the wetland communities meet performance standards prior to the years specified, as discussed in sections c) ii-iv, above, the District Engineer may determine early release of the financial assurance.

² Not including releases of financial assurances held in previous years.

23. All written notifications, yearly reports, and submittals required by this permit shall be submitted to: ATTN: MVP-2011-00832-JCB, St. Paul District, U.S. Army Corps of Engineers, Regulatory Branch, 190 5th Street East, St. Paul, MN 55101- 1638, or other address designated by the Corps. Written notifications may also be submitted via email to: mvp-reg-inquiry@usace.army.mil.

24. Refer to Standard Conditions attachment.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344).
2. Limits of this authorization.
 - a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.
 - b. This permit does not grant any property rights or exclusive privileges.
 - c. This permit does not authorize any injury to the property or rights of others.
 - d. This permit does not authorize interference with any existing or proposed Federal project.
3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:
 - a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
 - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
 - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
 - d. Design or construction deficiencies associated with the permitted work.
 - e. Damage claims associated with any future modification, suspension, or revocation of this permit.
4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.
5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:
 - a. You fail to comply with the terms and conditions of this permit.
 - b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).

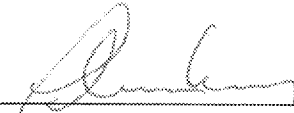
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Operations - Regulatory (2010-00832-JCB)

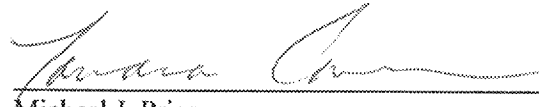
Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.


(PERMITTEE SIGNATURE)

12-10-12
(DATE)

Thomas Hickey
(PERMITTEE PRINTED OR TYPED NAME)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.


for Michael J. Price
Colonel, Corps of Engineers
District Engineer

12-10-12
(Date)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFEREE SIGNATURE)

(DATE)

(TRANSFEREE PRINTED OR TYPED NAME)

In addition to general and special conditions, this permit is subject to the following standard conditions, as applicable:

1. All work or discharges to a watercourse resulting from permitted construction activities, particularly hydraulic dredging, must meet applicable Federal, State, and local water quality and effluent standards on a continuing basis.
2. Measures must be adopted to prevent potential pollutants from entering the watercourse. Construction materials and debris, including fuels, oil, and other liquid substances, will not be stored in the construction area in a manner that would allow them to enter the watercourse as a result of spillage, natural runoff, or flooding.
3. If dredged or excavated material is placed on an upland disposal site, the site must be securely diked or contained by some other acceptable method that prevents the return of potentially polluting materials to a water of the United States by surface runoff or by leaching.
4. Upon completion of earthwork operations, all exposed slopes, fills, and disturbed areas must be given sufficient protection by appropriate means such as landscaping, or planting and maintaining vegetative cover, to prevent subsequent erosion.
5. If cultural, archaeological, or historical resources are unearthed during activities authorized by this permit, work must be stopped immediately and the St. Paul District Corps of Engineers and State Historic Preservation Officer must be contacted for further instruction.
6. A contingency plan must be formulated that would be effective in the event of a spill. This requirement is particularly applicable in operations involving the handling of petroleum products. If a spill of any pollutant should occur, it is the responsibility of the permittee to remove such material, to minimize any contamination resulting from this spill, and to immediately notify the State Department of Natural Resources and the U.S. Coast Guard at telephone number (800) 424-8802.